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CHAIRMAN ADAM PUTNAM WASHINGTON D.C. 226-2302

H.R. 3688 – U.S.-Peru Trade Promotion Agreement

EXECUTIVE SUMMARY

Representative Steny Hoyer (D-MD) introduced the U.S.-Peru Trade Promotion Agreement Implementation Act (H.R. 3688) on September 27, 2007. The bill was unanimously approved by the House Ways and Means Committee on October 31, 2007. H.R. 3688 is expected to be considered on the floor on November 7, 2007.

Total trade between the United States and Peru totaled $8.9 billion in 2006, with the United States exporting $2.9 billion to Peru and importing $6.0 billion. The primary U.S. exports to Peru are nuclear reactors, boilers, and machinery; electrical machinery; mineral fuels; plastics; and organic materials. The leading imports from Peru are gold and copper.

Peru was the 43rd largest market for U.S. goods in 2006. According to the Department of Commerce, more than 6,000 U.S. companies exported merchandise to Peru in 2005, the majority of which (81%) were small and medium-sized businesses. Florida and Texas are the two largest exporters to Peru.

According to Ways and Means Committee Republicans, 97 percent of all Peru's exports to the U.S. are already duty-free, but only 2.8% of Peru's tariff lines are currently duty-free for U.S. exporters. The U.S.-Peru Trade Promotion Agreement will correct this disparity to the benefit of U.S. exporters.

The Administration strongly supports approval of the U.S.-Peru Trade Promotion Agreement, arguing that it "advances U.S. national economic interests" and "creates significant new market opportunities for U.S. manufactured goods, agricultural products, and services."

FLOOR SITUATION

H.R. 3688 is being considered on the floor pursuant to a closed rule. The rule:

- Provides three hours of debate, with 45 minutes in favor of the bill controlled by Representative Rangel of New York or his designee, 45 minutes in favor of the bill controlled by Representative McCrery of Louisiana or his designee, 45 minutes in opposition to the bill controlled by Representative Michaud of Maine or his designee, and 45 minutes in opposition to the bill controlled by the Minority Leader or his designee.

- Waives all points of order against consideration of the bill except those arising under clause 9 (earmarks) and 10 (PAYGO) of Rule XXI.

- Provides that the bill shall be considered as read.

- Waives all points of order against the bill. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

- Provides that pursuant to section 151(f)(2) of the Trade Act of 1974, the previous question shall be considered as ordered on the bill to final passage without intervening motion.

- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

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BACKGROUND

While the U.S.-Peru Trade Promotion Agreement was initially signed on April 12, 2006, the Administration did not immediately send the implementing legislation to Congress for approval because of opposition from Democrats. The Peruvian Congress approved the agreement by a vote of 79 to 14 in June 2006.

In May 2007, Congressional Democrats and Republicans and the Administration reached a bipartisan compromise that was intended to provide a path to consideration of the Peru agreement as well as the U.S.-Colombia, U.S.-Panama, and U.S.-Korea Free Trade Agreements. The bipartisan trade pact focused on concerns with issues related to labor, the environment, intellectual property, port security, and investment. In June 2007, the United States and Peru signed a Protocol of Amendment that altered the agreement to reflect the bipartisan compromise. The Peruvian Congress approved the new agreement by a vote of 70 to 38 in June 2007.

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The United States already grants preferential treatment to imports from Peru under the Andean Trade Preference Act (ATPA). The Andean trade preferences, which were first signed into law in 1991, give special duty treatment to certain goods imported from Bolivia, Colombia, Ecuador, and Peru. The trade preferences are an important component of U.S. efforts to encourage economic development in the region and to fight the illicit drug trade. Congress passed and the President signed a short-term, 8-month, extension of ATPA in June 2007.

Note: According to Ways and Means Committee Republicans, 97 percent of all Peru's exports to the U.S. are already duty-free, but only 2.8% of Peru's tariff lines are currently duty-free for U.S. exporters. The U.S.-Peru Trade Promotion Agreement will correct this disparity to the benefit of U.S. exporters.

SUMMARY

Consumer and Industrial Products: 80 percent of American consumer and industrial products will be duty-free immediately. An additional 7 percent would become duty-free within 5 years, with all consumer and industrial products being duty-free within 10 years.

As part of the agreement, Peru will join the WTO's Information Technology Agreement (ITA), which would implement a tariff cutting mechanism for imports of information technology products into Peru.

Agriculture: More than two-thirds of U.S. farm exports would become duty-free immediately, which includes (among others) high-quality beef, cotton, wheat, soybeans, apples, peaches, and some processed foods. Most of the remaining tariffs would be phased out over the next 15 years, including (among others) standard-quality beef, yellow corn, rice, and processed dairy products. All tariffs on farm exports would be removed within 17 years. Safeguards are included in the agreement to protect certain U.S. industries if imports increase above a specified threshold.

Many agricultural imports from Peru already enter the United States duty-free under the Andean Trade Preferences Act.

For sugar, the United States would allow the importation of an additional 9,000 metric tons from Peru. This number will increase by 2 percent each year. In order for this increase to take place, Peru must be a net exporter of sugar.

Services: In light of the agreement, U.S. services firms will benefit from substantial market access across Peru's service sectors and from greater regulatory transparency. Peru has agreed to exceed its WTO services commitments and to dismantle significant services and investment barriers.

Textiles and Apparel: Under the agreement, textiles and apparel products would be duty-free and quota-free immediately as long as the products meet the agreement's rule of origin, which are generally based on the yarn forward standard.

Note: The yarn forward standard is intended to promote production and economic integration between the U.S. and Peru.

The agreement provides an exception process for items that are in short supply. It also establishes customs cooperation commitments to provide the framework for verifying claims of origin or preferential treatment.

Note: According to Ways and Means Committee Republicans, this "tariff benefit will not harm U.S. textile producers because Peru already receives duty-free benefits under ATPDEA for almost all U.S. imports of Peruvian apparel", and the agreement "does not allow the use of third-country fabrics through a trade preference level (TPL)."

Labor: The agreement requires both countries to adopt and enforce the five internationally recognized core labor rights, as stated in the 1998 International Labor Organization (ILO) Declaration on the Fundamental Principles and Rights to Work. To utilize the dispute settlement mechanisms of the agreement, violations of the labor standards must be sustained and related to U.S.-Peru trade or investment and can only be brought by the governments of the United States and Peru, not private parties. State laws in the U.S. are not affected.

Note: The obligations under this provision, as they relate to the ILO, refer only to the ILO Declaration, and the Administration believes that the United States is already in compliance with that Declaration. Peru has ratified 71 ILO Conventions, including all eight of the core conventions.

Environment: The U.S.-Peru Trade Promotion Agreement requires the United States and Peru to fully implement and enforce their environmental laws and regulations. It also requires the two countries to abide by their commitments to seven multilateral environmental agreements (MEAs) to which both countries are a party. To utilize the dispute settlement mechanisms of the agreement, violations of the environmental standards must be sustained and related to U.S.-Peru trade or investment and can only be brought by the governments of the United States and Perue, not private parties.

The agreement also mandates that Peru take steps to address the problems of illegal logging and promote forest sector governance. The U.S. is granted the authority to utilize audit checks to investigate potential illicit logging.

Note: The United States is already a party in good standing to each of the listed MEAs.

Port Security: The agreement does not allow foreign suppliers to control, manage, or operate any U.S. port. The agreement allows the United States to prevent Peruvian companies from providing landside services at U.S. ports based on the "essential security" exception without it being subject to challenge.

Dispute Settlement: The agreement lays out a framework for dispute settlements that provides public hearings, public release of documents, and an open forum for third parties to submit comments.

Intellectual Property: The agreement includes intellectual property protections, including 1) lengthening the duration of copyright protection; 2) expanding enforcement capabilities; 3) mandating the development of an on-line, searchable system to register and maintain trademarks; 4) imposing civil and criminal penalties for willful violators; and 5) providing damages for infringement. The bill also imposes stricter requirements on the use of non-public data in gaining foreign regulatory approval and market access for generic versions of pharmaceutical innovative medicines, balancing Peru's need for access to medicines with drug innovation.

ADDITIONAL VIEWS

The Administration strongly supports approval of the U.S.-Peru Trade Promotion Agreement, arguing that it "advances U.S. national economic interests" and "creates significant new market opportunities for U.S. manufactured goods, agricultural products, and services." (Statement of Administration Policy: H.R. 3688, 11/6/2007)

ADDITIONAL INFORMATION

International Trade Administration: TradeStats Express

U.S. Department of Commerce: U.S.-Peru Trade Promotion Agreement

USTR: Peru Trade Promotion Agreement

U.S. Department of Agriculture: U.S.-Peru Trade Promotion Agreement

COST

"The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) estimate that enacting the legislation would reduce revenues by $20 million in 2008, increase revenues by $292 million over the 2008-2012 period, and reduce revenues by $423 million over the 2008-2017 period." (CBO Estimate: H.R. 3688, 11/2/2007)

STAFF CONTACT

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